

RECEIVED
CENTRAL FAX CENTER

MAY 21 2007

REMARKS

Examiner Cumberledge is thanked for acknowledging the persuasiveness of arguments in the previous response. Despite that acknowledgement, however, a new rejection of the claims has been made over principally the same references. As explained below, it is respectfully requested that these rejections be withdrawn.

Initially, the Office Action asserted alleged aspects of indefiniteness in claims 5, 10 and 22. Regarding claim 5, it is believed that the claim is sufficiently definite as it is, since one of ordinary skill would understand it and it can be properly interpreted. Nevertheless, claims 5 and 6 are being amended to replace the word "connecting" with the word "engaging," as is used in claim 1. No change to the scope of the claims is intended or should be inferred.

Regarding claims 10 and 22, it appears that a typographical error was included, but it is believed that they are sufficiently definite, since one of ordinary skill would understand them and they can be properly interpreted. Nevertheless, claims 10 and 22 are amended to correct that error, as indicated above. No change to the scope of the claims is intended or should be inferred.

Turning now to the rejections under section 102, the Office Action alleges that claims 1-23, 29-34, 43-53 and 58 are anticipated by the Korhonen reference (U.S. Patent No. 5,669,910). Korhonen's failure to show separate shaft and rod connector component, argued in response to the last Office Action, was conceded in the current Office Action, and yet the current Office Action substantially repeats the language and reasoning of the prior Office Action. Respectfully, the Examiner is requested to reconsider these rejections in light of the arguments made in the prior response, incorporated herein by reference, given the concession to those arguments.

Moreover, it has been realized that the portrayal of the Korhonen's structure is incorrect. The Office Action's mark-up of Korhonen's Figure 4 indicates s reliance on item 24a as a "stud

RECEIVED
CENTRAL FAX CENTER

MAY 21 2007

extending from the body” of the interconnection element of claim 1. The Office Action considers item 30 to be an interconnection element according to that claim. However, it is seen that item 24a is the end of item 24, and those parts are separated in the exploded view of Figure 4 so that the end 46 of item 30 can be seen. Column 3, lines 32-38 of Korhonen explains that items 24 and 24a are actually one continuous rod integrally attached to part 18. Despite the perspective of Figure 4, it cannot be said that item 24 is a “projection” of the claim while item 24a is a separate “stud.” Claim 1 is amended to more clearly indicate that the stud is part of the interconnection element. That amendment is not necessary to distinguish over Korhonen, but is a clarification of the claim language. Korhonen does not show a “stud” as part of an interconnection element, as item 24a is part of item 24, which the Office Action calls a “projection” from a “first shaft.”

Further, claim 1 recites that the “first shaft and said projection [are] slidably received within the first aperture.” Referring again to the Office Action’s mark-up of Korhonen’s Figure 4, the Office Action the entirety of item 18 to be a “first rod connector,” the block-like portion of item 18 to be a “first shaft,” and item 30 to be an “interconnection element” with a rectangular aperture adjacent item 46. With those assumptions, it is also noted that the block-like part of item 18 is not and cannot be slideably received within that aperture. Indeed, the demonstrated assemblies of Korhonen’s device (Figures 1 and 2) show the block-like part of item 18 as being separated from item 30. Respectfully, neither the comments on the prior response nor the analysis in the Office Action addresses how Korhonen could show a shaft and projection slideably received in an aperture of an interconnection element.

For at least these reasons, the Korhonen reference does not show all elements of claim 1 arranged as recited in the claim. Claims 2-42 depend from claim 1, and thus all of their elements are also not shown in the relied-on references. These claims include additional subject matter

also absent from the Korhonen reference. For example, claim 11 recites that the second shaft is rotatable about an axis defined by the stud to vary an angle defined by the first shaft and the second shaft. The Office Action does not give any explanation as to how Korhonen meets that claim. While item 28 of Korhonen can rotate minimally around item 24, the angle defined by items 18 and 28 (alleged by the Office Action to be the "shafts") remains 180 degrees. As another example, the Office Action does not say what part of Korhonen could correspond to the "washer" recited in claim 13, and no such part is seen. These examples are not exhaustive, and Applicants reserve the right to note other features missing from Korhonen as may be necessary.

With due respect, it is also noted that the Office Action's interpretation of certain terms, such as "curved," "hook," and "non-linear," are indisputably divorced from a common understanding of those terms to one of ordinary skill in this art and their usage in the present application. In particular, logic prohibits calling the rod-connecting parts of Korhonen "hooks." It is submitted that even though the broadest reasonable interpretation is to be given to claim terms during examination, the Examiner should reconsider whether the interpretation given is reasonable in light of the level of skill in the art and the specification of the present application.

Most or all of the arguments above are also applicable to independent claim 44 and the claims that depend from it. In particular, the fact that Korhonen's labels 24 and 24a refer to one part means that there is no "insert" that extends "through the first aperture [of the second rod connector] and positioned in said second body and in communication with said second aperture," as claim 44 recites. The Office Action's analysis depends on the erroneous supposition that item 24a is a part of item 30, when in fact it is the same piece as item 24. No part of item 30, which the mark-up on page 8 of the Office Action considers an "insert," extends through any "first aperture" as defined in the claim, or is positioned as recited in the claim.

Similarly, independent claim 53 recites an interconnection element essentially as in claim 1, with the distinction between the shaft and the stud that is lacking in Korhonen, as discussed above. Korhonen does not anticipate claim 53 and its dependent claims for at least the same reasons noted previously.

The arguments above apply equally to claims 43 and 52 and 58, which recite methods of using the apparatuses of claims 1 and 44 and 53, respectively. Claims 43 and 52 and 58 are thus allowable over Korhonen.

The Office Action once again suggested that functional statements were not considered. Respectfully, that is not a correct application of the law, and functional statements must be considered in assessing patentability. See, e.g., *In re Ludtke*, 411 F.2d 660 (CCPA 1971). As demonstrated above, the structure disclosed in Korhonen simply is not capable of functions recited in the claims. This is a case in which the different structure of Korhonen cannot meet all features of the claims, both structural and functional. There is no structure in Korhonen that any pending claim, taken in its entirety, could "read on."

As to the obviousness rejections, as demonstrated above, the Korhonen reference does not include all elements of any of the independent claims. Even if Korhonen and Shluzas can properly be combined, they have not been shown to include the missing features. Further, adding the items 48 and 50 of Shluzas to the Korhonen device would fundamentally change the operation of Korhonen. To make the proposed combination, items 48 and 50 of Shluzas would be found at the junction between item 24a and end 38 of the Korhonen device. That combination would not allow item 30 to slide onto item 28 (see Korhonen column 4, lines 20-22) in any orientation in which item 24 is not precisely aligned with opening 36. In other words, when item 18 is pivoted or non-aligned with respect to item 28, item 30 cannot perform its job of sliding on

and closing item 28. Further, if the only useful position of the modified Korhonen device is the original aligned position, there is no reason for the person of ordinary skill to import the pivot-enabling structure from Shluzas. The person of ordinary skill would see from Korhonen's teachings about the purpose and uses of its parts that adding Shluzas' items 48 and 50 would not accomplish the purported motivation for the combination.

As to the combination of Korhonen and Sherman, it is agreed that Korhonen does not show a washer. Korhonen also cannot be modified to include the Sherman washer without impairing or changing its mode of operation. The Office Action appears to assert that the Sherman washer can be placed on item 24a between item 30 and item 28 of Korhonen. Doing so prevents item 30 from accomplishing its purpose as taught by Korhonen of sliding over and closing item 28. If item 30 is blocked from sliding over item 28, then item 24 falls away from item 28 and the Korhonen device comes apart. Respectfully, the modification proposed in the Office Action runs counter to Korhonen's teachings and would make its device inoperable.

Korhonen cannot be combined with the newly-cited Burgess reference for substantially the same reasons given above with respect to the combination of Korhonen with Shluzas. The only reason to combine is to allow the Korhonen parts to move in three degrees of freedom, yet in enabling such movement, the ability for item 30 to slide over and close item 28 is eliminated. Without linearity between items 18 and 28 in Korhonen, the linear sliding motion of item 30 onto item 28 cannot occur, and the Korhonen device will come apart.

New claims 59-61 are being offered. Support for claim 59 is found in Figures 1, 2, 5, 11, and 13 of this application and associated text, among other places. Support for claim 60 is found in Figures 1, 2, 4, 9, 12, and 13 and associated text, among other places. Support for claim 61 is found in Figures 1, 2, 12, and 19 and associated text, among other places. No new matter has

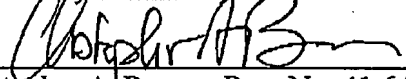
been added. Along with the reasons given above with respect to claim 1, these new claims are allowable because the relied-on references do not show a stud monolithic with a body as recited in claim 59, axes oriented as recited in claim 60, or pivotable structure as recited in claim 61.

To summarize, it is respectfully maintained that the pending claims are not anticipated by Korhonen for at least the above reasons. The addition of the Shluzas, Sherman or Burgess references do not fill Korhonen's deficiencies, and the combinations of the references would fundamentally change the operation of the Korhonen device or make it inoperable. Because there is no *prima facie* case of obviousness for these and perhaps other reasons, the rejections based on alleged obviousness should be withdrawn.

It should be understood that the above remarks are not intended to provide an exhaustive basis for patentability or concede the basis for the rejections in the Office Action, but are simply provided to overcome the rejections made in the Office Action in the most expedient fashion. Further, no necessary narrowing amendments have been made, and thus it is believed that the claims should be entitled to the entire scope permitted by their language, including equivalents.

In view of the above amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and an early notice of allowance is requested. If the Examiner feels that any issues remain, the Examiner is invited to contact the Applicant's undersigned representative by telephone.

Respectfully submitted,



Christopher A. Brown, Reg. No. 41,642
Woodard, Emhardt, Moriarty,
McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

464440

Amendment and Response to Office Action
YOUNG et al., USSN 10/695,067
Atty. Docket 4002-3431

Page 15 of 15